

Statement of Rep. Edward J. Markey (D-MA)  
H.R. 3313, the “Marriage Protection Act of 2004.”  
July 22, 2004

Mr. Chairman, I rise in opposition to this legislation.

This week, the 9/11 Commission is delivering its report on the massive intelligence and other failures that allowed the September 11<sup>th</sup> terrorist attacks to take place.

At the same time, U.S. combat fatalities in Iraq have risen to 900, and number of those injured has risen to nearly 6000.

Oil prices have risen once again to over \$40 per barrel, as OPEC and the big oil companies continue to tip consumers upside down and shake money out of their pockets.

The economy remains locked in a slow, jobless recovery, with about 1.1 million fewer Americans employed than when Bush took office.

Are we taking up legislation today to address any of these issues?

No.

What are we doing?

We are taking up a bill to strip the federal courts of the power to hear cases challenging the Constitutionality of the Defense of Marriage Act. Apparently, the Republican Congress is so concerned that a gay or lesbian couple might someday have their marriage in one state recognized in another state that they are prepared to take the extreme measure of preventing judges from interpreting the law. While every other American will continue to

enjoy the checks and balances that come from three branches of government, the Republicans have decided that if you are gay, you should be able to get along with just two branches of government!

Why are we doing this?

In a recent article, conservative activist Paul Weyrich shed some light on the current thinking in Republican circles may explain why this bill really is on the floor today. Here is what Mr. Weyrich had to say:

“My concern is this: The President has bet the farm on Iraq. Right or wrong, he has done it. Even if you disagree with the decision, you have to admire the President for putting it on the line and for staying the course despite overwhelmingly bad news for months now.

Therefore, Iraq will be an unavoidable topic of discussion in this campaign. The problem is that events in Iraq are out of the control of the President.”

Mr. Weyrich writes: “There is only one alternative to this situation: Change the subject.” He dismisses the option of talking about oil prices or the economy. Apparently, even he doesn’t think they’re winning issues for the President right now.

“No,” he concludes, “what I have in mind to change the subject is a winner for the President. The Federal Marriage Amendment.” The gay marriage issue, he gleefully advises “will cause Senator Kerry no end of problems.”

So, that is what all of this is really about. Republican leaders in Washington are running scared. They look at the polls on the Iraq War, on the economy, on jobs, and they fear that the voters are going to rise up in November and turn them out of office. So, they brought up a Constitutional amendment on Gay Marriage in the

Senate last week, and today they are bringing up this bill to strip the federal courts of their power to hear Constitutional challenges to the Defense of Marriage Act.

I believe that this bill is blatantly unconstitutional. It violates the fundamental principle of separation of powers and would have the legislative branch encroach on the ability of an independent judiciary to render decisions on matters affecting the legal and Constitutional rights of a minority. Is that the path we want to start down? Because if we do it here today, what is to prevent a future Congress from stripping the courts of the power to uphold the Constitution's Bill of Rights, the Equal Protection Clause of the 14<sup>th</sup> Amendment, or any of the other protections that Americans look to our Constitution to provide?

Today, let's say no to breaching America's core Constitutional principles in order to help President Bush and Republican Leaders in Washington to "change the subject" in a blatant political election-year ploy. Let's defeat this bill.

I urge a No vote.